

No. 82

REGISTRATION.

I.—INDIAN COMPANIES ACT VI OF 1882.

I.—ANNUAL REPORT.

1. THE annual report on the working of the Indian Companies Act should be made out for the official year. (G. I., R. A. & C., No. 13, dated 23rd December 1878; *vide* G. R. No. 50, dated 6th January 1879.)

2. It should be submitted to Government by the 1st June at the latest, and should reach the Government of India within three months of the end of the year, that is to say, not later than the 1st July.

The Companies should be classified as follows in the report:—

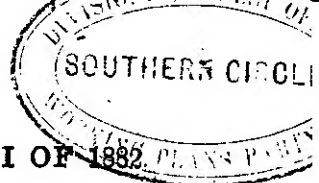
- (a) Banking, Loan and Insurance.
- (b) Trading ...
 - Merchants and traders.
 - Navigation, Railways and Tramways.
 - Co-operative associations.
 - Shipping, landing and warehousing.
- (c) Mills and Presses.
 - Cotton Mills,
 - Jute Mills.
 - Mills for cotton, jute, wool, silk, hemp, &c.
 - Cotton and jute--screws and presses.
 - Other mills and presses.
- (d) Tea and other planting companies.
 - Tea.
 - Coffee and cinchona.
 - Others.
- (e) Mining and quarrying.
- (f) Ice manufacture.
- (g) Sugar manufacture.
- (h) Breweries.
- (i) Others.

In preparing the list care should be taken to separate companies that have gone into liquidation, or are winding up, or have dissolved during the year under report, from companies that are working. But companies that have gone into liquidation and registered themselves afresh merely in satisfaction of a required formality, without ceasing work, should not be removed from the list of working companies; a foot-note in the list should indicate the nature of the operation effected. Where a transaction at the Registrar's Office is merely formal, and does not touch the sum of the capital, the paid-up capital last declared should be entered in the report and statements.

Companies that have wound up finally before the year under report should be omitted altogether. Increases and decreases of capital should be particularly noticed, and the causes explained.

Companies limited by guarantee, that is possessing no capital paid up, should be entered in a separate list. Literary, scientific and charitable societies registered under Act XXI of 1860 need not be noticed in the report on Joint Stock Companies.

The statistical information to be given with the reports should be furnished in the ten forms annexed. As reports must be based on these statements, it is evident that the tables should be framed with absolute accuracy.



(FORMS REFERRED TO ABOVE).

No. I.

Abstract of Joint Stock Companies.

	COMPANIES DIVIDED INTO SHARES.			COMPANIES LIMITED BY GUARANTEE, i.e., POSSESSING NO CAPITAL PAID UP.	
	No. of Companies.	Nominal capital.	Paip-up capital.	No. of Companies.	No. of Members.
		Rs.	Rs.		
Working at close of (1891-92) ...					
Registered during (1892-93) ...					
Capital increased during (1892-93) .					
Capital decreased during (1892-93) .					
Ceased to work during (1892-93) ...					
Working at close of (1892-93) ...					

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No. II.

Joint Stock Companies registered during the year (1892-93).

No. on the register.	Date of registration.	Classification and name of Company.	Objects of Company.	Nominal capital.	Paid-up capital.	Situation of registered office.
		<i>I.—Banking, Loan and Insurance—</i>		Rs.	Rs.	
		(a) Banking and loan (name each)	Total of (a) ...			
		(b) Insurance (name each)	Total of (b) ...			
			Total of Bank- ing, etc. ...			
		<i>II.—Trading.</i>				
		(a) Merchants and traders. (name each)	Total of (a) ...			
		(b) Navigation (name each) (and so on)	Total of (b) ...			
			Total of Trading			
		<i>III.—Mills and Presses—</i>				
		(a) Cotton mills (name each) (and so on)	Total of (a) ...			
			Total of Mills and Presses.			
			GRAND TOTAL OF ALL COM- PANIES.			

No. III.

Companies limited by guarantee registered during the year (1892-93).

No. on the register.	Date of registration.	Classification and name of Company.	Objects of Company.	No. of Members.	Situation of registered office.
		<i>I.—Banking, Loan and Insurance—</i>			
		(a) Banking and loan (name each)	Total of (a) ...		
		(b) Insurance (name each)	Total of (b) ...		
			Total of Bank- ing, &c. ...		
		<i>II.—Trading—</i>			
		(a) Merchants and traders. (name each)	Total of (a) ...		
		(b) Navigation (name each) (and so on)	Total of (b) ...		
			Total of Trading		
		<i>III.—Mills and Presses.</i>			
		(a) Cotton mills (name each) (and so on)	Total of (a) ...		
			Total of Mills and Presses...		
			GRAND TOTAL OF ALL COM- PANIES ...		

No. IV.

Joint Stock Companies that have increased their capital during the year (1892-93).

No. on the register.	Date of registration.	Classification and name of Company.	Date of increase.	PREVIOUS CAPITAL.		PRESENT CAPITAL.		DIFFERENCE.	
				Nominal.	Paid-up.	Nominal.	Paid-up.	Nominal.	Paid-up.
				Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
		<i>I.—Banking, Loan and Insurance—</i>							
		(a) Banking and loan ...	Total of (a)...						
		(name each)							
		(b) Insurance ...	Total of (b)...						
		(name each)							
		<i>II.—Trading—</i>	Total ...						
		(a) Merchants and traders ...							
		(name each)	Total of (a)...						
		(and so on)							
			Total of Trading ...						
			GRAND TOTAL OF ALL COMPANIES ...						

No. V.

Joint Stock Companies that have reduced their capital during the year (1892-93).

No. on the register.	Date of registration.	Classification and name of Company.	Date of reduction.	PREVIOUS CAPITAL.		PRESENT CAPITAL.		DIFFERENCE.	
				Nominal.	Paid-up.	Nominal.	Paid-up.	Nominal.	Paid-up.
				Rs.	Rs.	Rs.	Rs.	Rs.	Rs.
		<i>I.—Banking, Loan and Insurance—</i>							
		(a) Banking and loan ...	Total of (a)...						
		(name each)							
		(b) Insurance ...	Total of (b)...						
		(name each)							
		<i>II.—Trading—</i>	Total ...						
		(a) Merchants and traders ...							
		(name each)	Total of (a)...						
		(and so on)							
			Total of Trading ...						
			GRAND TOTAL OF ALL COMPANIES ...						

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No. VI.

Joint Stock Companies that, having ceased work, have gone into liquidation or have been finally dissolved (or otherwise become defunct) during the year (1892-93).

No. on the register.	Date of registration.	Classification and name of Company.	Nominal capital.	Paid-up capital.	Date of going into liquidation.	Date of final dissolution.
		<i>I.—Banking, Loan and Insurance—</i>	Rs.	Rs.		
		(a) Banking and loan ... (name each)				
		Total of (a) ...				
		(b) Insurance ... (name each).				
		Total of (b) ...				
		Total ...				
		<i>II.—Trading—</i>				
		(a) Merchants and traders ... (name each).				
		Total of (a) ...				
		(and so on)				
		Total of Trading...				
		GRAND TOTAL OF ALL COMPANIES.				

No. VII.

Companies limited by guarantee that, having ceased work, have gone into liquidation or have been finally dissolved or (otherwise become defunct) during the year (1892-93).

No. on the register.	Date of registration.	Classification and name of Company.	No. of Members.	Date of going into liquidation.	Date of final dissolution.
		<i>I.—Banking, Loan and Insurance—</i>			
		(a) Banking and loan ... (name each).			
		Total of (a) ...			
		(b) Insurance ... (name each).			
		Total of (b) ...			
		Total ...			
		<i>II.—Trading—</i>			
		(a) Merchants and traders... (name each)			
		Total of (a) ... (and so on)			
		Total of Trading ..			
		GRAND TOTAL OF ALL COMPANIES...			

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No. VIII.

List of Joint Stock Companies at work on the 31st March (1893).

No. on the register.	Date of registration.	Classification and name of Company.	Objects of Company.	Nominal capital.	Paid-up capital.	Situation of registered office.
				Rs.	Rs.	
		<i>I.—Banking, Loan and Insurance—</i>				
		(a) Banking and loan (name each).	Total of (a) ...			
		(b) Insurance (name each).	Total of (b) ...			
			Total ...			
		<i>II.—Trading—</i>				
		(a) Merchants and traders (name each). (and so on)	Total of (a) ...			
			Total of Trading ...			
			GRAND TOTAL OF ALL COMPANIES.			

No. IX.

List of Companies limited by guarantee at work on the 31st March (1893).

No. on the register.	Date of registration.	Classification and name of Company.	Objects of Company.	Number of Members.	Situation of registered office.
		<i>I.—Banking, Loan and Insurance—</i>			
		(a) Banking and loan (name each) ...	Total of (a) ...		
		(b) Insurance (name each). ...	Total of (b) ...		
			Total ...		
		<i>II.—Trading—</i>			
		(a) Merchants and traders (name each) (and so on)	Total of (a) ...		
			Total of Trading ...		
			GRAND TOTAL OF ALL COMPANIES.		

3. Companies like the Virangám-Vepár Uttejakk Ginning Company, Limited, whose declared object is that of ginning and pressing cotton, should be placed under "Mills and Presses" instead of under "Trading Companies." (G. I., F. & C., No. 314S., dated 30th November 1886; *vide* G. R. No. 8679, dated 9th December 1886.)

II.—DUTIES AND APPOINTMENTS OF THE REGISTRAR AND ASSISTANT REGISTRAR OF JOINT-STOCK COMPANIES.

1. Under the provisions of Section 190* of the Indian Companies' Act, 1866, His Excellency the Governor in Council is pleased to make the following regulations with respect to the duties to be performed by the Registrar and Assistant Registrar of Joint Stock Companies in the Bombay Presidency.

1st. The Registrar of Joint Stock Companies shall in his discretion institute such enquiries and investigations at the offices of registered Companies or otherwise as shall be necessary to obtain information or evidence respecting defaults made by such Companies in complying with any of the provisions of the Indian Companies' Act, 1866.

2nd. In the absence of the Registrar from Bombay, any act directed in the aforesaid Act to be done to or by the Registrar of Joint Stock Companies shall be done to or by the Assistant Registrar of Joint Stock Companies.

3rd. The Registrar of Joint Stock Companies may, at any time, at his discretion, direct the Assistant Registrar of Joint Stock Companies to perform any act directed to be done by the Registrar of Joint Stock Companies under the aforesaid Act. (G. N., dated 21st November 1866; *vide* G. R. No. 4303 of the same date.)

2. It is the duty of the Registrar of Joint Stock Companies to prosecute for defaults on the part of Companies and individuals in furnishing to him certain returns, documents and notices which the law requires them to furnish, but in any such case he should act in communication with the Government Solicitor. (G. R., J. D., No. 1375, dated 27th April 1866.)

3. The Sub-Registrars of the places named in the margin have been appointed, under Section 190,* clause 1 of Act X of 1866, *ex-officio* Assistant Registrars of Joint Stock Companies to prosecute defaulting Companies doing business within their jurisdiction. (G. N., dated 4th July 1877; *vide* G. R. No. 2739, dated 28th April 1877.)

III.—ESTABLISHMENT.

1. The appointment of clerk to the Registrar of Joint Stock Companies should be made by the Registrar with the approval of the Inspector General of

* *Vide* Sections 2 and 220 of the Indian Companies' Act, 1882.

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Registration and Stamps, who should have the power to remove the clerk from his post if he considers it necessary to do so in the interests of the public service. (G. R. No. 5437, dated 30th July 1886.)

IV.—REGISTRATION OF PROVIDENT SOCIETIES OR BENEFIT CLUBS.

If such an Association as what would be called in England a Provident Society or Benefit Club is to be registered under the Indian Companies' Act, it must be in the ordinary way, and not by license under Section 26, which only applies to Associations not for profit; and benefit to the subscribers on death is profit, not charity. (Adv. Gen. No. 117, dated 3rd December 1889; *vide* G. R. No. 9702, dated 23rd *idem*.)

V.—PROSECUTIONS.

If an offence committed by a Company under the Indian Companies' Act is one which must be said to have been committed in Bombay, whether the Company's registered office is there or not, the prosecution of the Company must take place in Bombay. If the offence is committed at some place in the mofussil, the prosecution must take place there and should be conducted by the Government Pleader at that place, if there is one, or, failing him, by any other pleader under the instructions of the Registrar of Joint Stock Companies. In a case of the latter description the evidence of commission of the offence to be dealt with must, if necessary, be despatched from Bombay, in order to be produced before the mofussil Magistrate. (Memo. from Solicitor to Government No. 1558, dated 30th November 1868; *vide* G. R. No. 4574, dated 4th December 1868.)

II.—PÁRSI MARRIAGE AND DIVORCE ACT, 1865.

The Registrar General should exercise superintendence over the Registrars of Pársi marriages.

A marriage certificate sent by a priest to a Registrar in conformity with Section 6 of Act XV of 1865 should be copied into a book, which should be called the Register of Pársi Marriages, and the original certificate should be preserved in the office and filed in a paste-book. (G. R. No. 3387, dated 5th September 1868.)

III.—INDIAN REGISTRATION ACT, 1877.

I.—APPLICATION OF THE ACT.

1. Acts like the Indian Registration Act, III of 1877, which in terms extend to the whole of British India necessarily apply to the Scheduled districts as well as to the Regulation districts, and no notification under the Scheduled Districts Act XIV of 1874 is necessary to give them operation in those districts. (L. R. No. 1329, dated 3rd December 1877; *vide* G. R. No. 7299, dated 8th *idem*.)

2. The tracts of country belonging to the following Mehwási Chiefs are excluded from the operation of the Indian Registration Act III of 1877 :—

The Párvi of Káthi.

„ Nál.

„ Singpur.

The Walvi of Gaohálii.

The Wasáva of Chikhli.

The Párvi of Nawalpur.

(G. I., H. D., No. 683, dated 27th March 1878; *vide* G. R. No. 1752, dated 5th April 1878.)

II.—ANNUAL REPORT.

1. The Administration Report of the Registration Department should be submitted in full every third year, statistical returns and brief commentaries in the shape of notes being submitted in the intermediate years. The notes should give a clear, though brief, indication of the supervising or controlling officer's opinion as to the significance of the statistics. The latest dates of submission of the Annual Report to the Local Government and the Government of India are 15th August and 1st October respectively. (G. I., H. D., Nos. 28-1579-95, dated 15th July 1887, and 11-790-801, dated 24th April 1891; *vide* G. Rs., G. D., Nos. 2426, dated 17th August 1887, and 3346, dated 22nd September 1891.)

2. The annual reports on the operations (a) in the Registration Department proper and (b) in the Village Registration Department should be combined in one communication, but the two subjects should be dealt with separately. (G. M. No. 3043, dated 25th April 1889.)

3. Local Governments are at liberty to order the introduction of additional columns in the statistical forms* prescribed by the Government of India for the annual reports of the Registration Department or the adoption of extra forms for any additional information that, owing to local reasons, may be considered necessary or desirable. But it should be borne in mind that whenever the adoption of any new column or of any new sub-division of an old column is resolved upon, it should be distinguished from the prescribed columns in the manner explained in the Home Department Resolution† No. 796-800, dated 12th May 1873. (G. I., H. D., Nos. 5442, dated 13th December 1871, and 64-2667, dated 30th October 1874; *vide* G. Rs. Nos. 6409, dated 21st December 1871, and 5953, dated 12th November 1874.)

*These forms were prescribed in the Resolution of the Government of India No. 5442, dated 13th December 1871; *vide* G. R. No. 6409, dated 21st idem; *vide* also G. Rs. Nos. 1037 dated 19th February 1875, 6956 dated 21st November 1881, 6767 dated 5th October 1887 and 2345 dated 1st April 1890.

†Extract from G. I., H. D., No. 796-800, dated 12th May 1873 (*vide* G. R., J. D., 3023 dated 31st idem) :—

Local Governments can use their discretion as to entering in the prescribed returns such additional columns as seem to be really needed for adequately exhibiting or explaining the information which the returns are intended to convey. So far as these purposes require, the original columns can also be subdivided, provided that the original columns themselves are

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4. In the annual administration report the names as well as the number of offices examined by the Inspector General of Registration and Stamps should be furnished.

In the case of the chief heads of revenue and expenditure and of the more important classes of documents, the average figures for the five preceding years should be shown. (G. R. No. 6056, dated 16th November 1880.)

5. The Registrars and the Inspector General of Registration should endeavour to explain the variations in the registrations of different classes of documents separately instead of assigning general causes for increases or decreases in the total numbers of documents registered. (G. R. No. 158, dated 9th January 1883.)

6. The Inspector General of Registration and Stamps should obtain and embody in his annual report

retained. It is probable that the necessity for any changes of this kind will greatly be reduced if a column of remarks be used in *all* statements. If the Local Administrations, however, find it essential to alter the tabular forms in which their statistics are sent up to the Government of India (which should never be done in the way of expansion or mere addition, but only in the way of elucidation), then the following method must be observed. All *new items* and all *new columns* should be given in different coloured ink, so as to be at once distinguishable from those *prescribed*, and all fresh columns should be distinguished by a subordinate number so as not to alter the numbers given by the Government of India to the columns in the prescribed statements; thus if it be intended to add two columns between columns 3 and 4 of any Statement, the heading of these new columns and the numbering, as well as the figures in them, should be (if the rest of the statement is in black) given in *red* ink, and the numbers should be 3a and 3b. In giving totals and averages, if the figures shown in the new columns will affect these, then these should be *twice* given; one total or average showing what the result would be according to the *prescribed statement*, the other (which should be in ink of a different colour) those as resulting from the additional figures.

If a column be sub-divided, the sub-divisions should be shown thus: Let column three, for example, be that of the prescribed statement, and suppose it is desired to divide it into three sub-heads, then the addition will be given thus:—

3	DETAILS OF COLUMN 3.		
	3a	3b	3c
Number of persons released pending trial.	On bail.	On their own security.	Without security.

By these means it will be possible to show any *additional* subordinate matter which the Local Governments find really needed without disturbing the uniformity of the prescribed statements. The fundamental arrangement of these statements should be left wholly untouched. Statistics should not be thrown into groups which are arranged in the prescribed statements alphabetically, or *vice versa*, nor should the order of the columns be transposed. But any criticisms or proposed improvements may be submitted separately for consideration.

on the working of the Indian Registration Act, 1877, and the Dekkhan Agriculturists' Relief Act, 1879, accurate information regarding the causes of the principal variations in the number of registrations. (G. R. No. 8956, dated 4th December 1893.)

III.—OBJECTS, PRINCIPLES AND POLICY OF THE DEPARTMENT.

1. It is necessary that the Registration Department should be self-supporting, but it is not intended that registration should be treated as a source of revenue, and the cheapening of transactions connected with it must have a considerable influence in popularizing and extending it to the public advantage. (G. R. No. 9474, dated 25th November 1885.)

2. The Governor General in Council trusts that no efforts will be spared to endeavour to make the registration of optionally registrable deeds more general than it is. It is incumbent on the Government to give all reasonable facilities for registration by establishing offices in sufficient numbers and appointing special officers for all places where there is no other public servant available with leisure to attend to the work, and where the receipts are likely to be sufficient to cover the cost. There is ample scope for increasing the number of offices in places where they do not at present meet the requirements of the people. The department has not been established for the purpose of realising a profit to Government, but in order to secure a better record of title in land and better evidence of monetary transactions among the people; and the Governor General in Council trusts that Local Governments and Administrations will not lose sight of the need for devoting the surplus in their hands (after meeting pensions and other indirect charges) to providing facilities for registration when experience shows that they are required. (G. I., H. D., No. 6 Pub.—259-271, dated 17th February 1891; *vide* G. R. No. 1724, dated 6th March 1891.)

3. As a general rule the Government of India is not disposed to regard with favor proposals to enhance registration fees especially when the enhancement affects documents of small values. It seems to His Excellency the Governor General in Council to be good policy to cheapen fees chargeable on such documents with the view of popularizing the system of registration and relieving the pressure which it must necessarily entail on the poorer classes. (G. I., H. D., No. 1000, dated 6th May 1887; *vide* G. R. No. 3376, dated 30th idem.)

4. In attempting to ascertain the value of estates and tenures transferred by registered deeds of sale, registering officers in Bengal were instructed to make enquiries of parties presenting deeds in which no revenue or rental was mentioned, in view to supplying the requisite details. In several instances such interference was resented, parties declining to furnish the information as not compulsory under the law. The Government of India consider that

the prosecution by registering officers of personal interrogations on points regarding which the law does not oblige the parties to give information is greatly to be deprecated. There is nothing more likely to render registration unpopular and to contract the business of the Department. Local Governments should see that any general instructions of this description, which may have been issued, are withdrawn. (G. I., H. D., No. 36-1174-85, dated 1st September 1883; *vide* G. R. No. 7507, dated 8th October 1883.)

IV.—REGISTRATION DISTRICTS AND SUB-DISTRICTS.*

1. Under Section 5† of Registration Act VIII of 1871, His Excellency the Honourable the Governor in Council is pleased to order that on and from the 1st of October 1872, the British territory at Aden shall be formed into a district for the purposes of the above-named Act. The limits of the Aden District shall be the limits of the territory now in occupation at Aden, and shall include the Cantonment, Fortress, Port, Town, and Suburbs actually in possession of the British authorities. His Excellency in Council is further pleased, under Section 6 of Act VIII of 1871, to appoint the First Assistant Resident at Aden, or the officer acting in that capacity, *ex-officio* Registrar of Assurances for the Aden District, on and from the date of the introduction of the above-named Act into that place. (G. N. dated 3rd July 1872; *vide* G. R. No. 3184 of the same date.)

† Cf Section 5 of the Indian Registration Act, 1877.

2. Under Section 5 of the Indian Registration Act, No. VIII of 1871, His Excellency the Honourable the Governor in Council is pleased to order that on and from the 1st of July 1875 a Registration Sub-District shall be formed at Aden. The limits of the Aden Sub-District shall be conterminous with those of the District of Aden as prescribed in the Notification dated 3rd July and published at page 839 of the *Government Gazette* of 4th July 1872. (G. N., dated 14th June 1875; *vide* G. R. No. 3362 of the same date.)

3. In exercise of the powers conferred by Sections 5 and 7 of the Indian Registration Act, No. III of 1877, and in supersession of all previous notifications regarding the Registration District and Sub-District of Bombay and the office of Registrar and Sub-Registrar therein, the Governor in Council is pleased to direct that, with effect on and after the 1st January 1888, (a) the City of Bombay, as defined in the Bombay General Clauses Act, 1886, shall be a Registration District and also a Registration Sub-District; (b) the office of the Sub-Registrar of Bombay shall be amalgamated with that of the Registrar of Bombay; (c) the said Sub-Registrar shall exercise, in addition to his own powers and

* Most of the Notifications regarding the Registration Districts and Sub-Districts in this Presidency have not been reproduced here, being not of sufficient general importance.

duties, all the powers and duties of the Registrar of Bombay, except the power to hear an appeal against an order passed by himself under the said Act. (G. N. No. 8531, dated 16th December 1887.)

4. With reference to Sections 4, 5, 6 and 7 of the Indian Registration Act III of 1877, as extended to the Cantonment of Deesa, the Governor General in Council is pleased to make the following orders:—

(1) All the powers and duties conferred and imposed by the Act upon the Inspector General of Registration shall be exercised and performed within the Cantonment of Deesa by the Inspector General of Registration of the Bombay Presidency.

(2) For the purposes of the Act the Cantonment of Deesa shall form a District and also a Sub-District.

(3) The Political Superintendent of Pálanpur for the time being shall be the Registrar and the Cantonment Magistrate of Deesa for the time being the Sub-Registrar of the said District and Sub-District, respectively.

(4) The office of the Political Superintendent of Pálanpur for the time being shall be the office of the Registrar and the office of the Cantonment Magistrate of Deesa for the time being that of the Sub-Registrar. * * * (G. I. Notification, Foreign Department, No. 2734-I., dated 5th July 1888; *vide* G. N. No. 4614 dated 11th idem.)

5. In exercise of the powers conferred by Government of India's Notification No. 402-I. of 1885, republished at page 156 of the *Bombay Government Gazette* of 12th February 1885, His Excellency the Governor in Council is pleased, under Section 7 of the Indian Registration Act of 1877, to direct that on and after 1st of October 1888 the office of the Sub-Registrar of the Deesa Registration Sub-District, as declared by the Government of India's Notification No. 2734-I of 1888, republished at page 574 of the *Bombay Government Gazette* of 12th July 1888, shall be amalgamated with the office of the Registrar of the Registration District of Deesa, as declared in the said Notification. His Excellency the Governor in Council is further pleased, under the said section, to authorise the Sub-Registrar of Deesa to exercise and perform, in addition to his own duties, all the powers and duties of the said Registrar of Deesa except the power of hearing appeals. (G. N. No. 6369, dated 21st September 1888.)

V.—REGISTRARS.

1. The status of *ex-officio* Registrars of their districts is nowhere assigned in the Act to Collectors and Acting Collectors. Therefore, when an officer is appointed to be or to act as Collector of a District, it will be notified by Government that he has also been appointed to be or to act as Registrar of his District. (G. R. No. 1151, dated 4th March 1878.)

The duty of appointing some one to carry on the duties of District Registrars during the temporary

absence of the Registrar appointed by Government or when the office is temporarily vacant till the appointment is filled up by Government rests under Section 10 of the Indian Registration Act, 1877, with the Inspector General. That officer should issue a circular order designating the persons on whom the duties of Collector and District Magistrate might devolve under Section 11 of the Land Revenue and Criminal Procedure Codes as the persons appointed by the Inspector General to act in such vacancies until the Local Government fills them up. (G. L. No. 2117, dated 22nd March 1893.)

2. Section 30 (b) of Act III of 1877 empowers the Registrar of a District, including a Presidency

*Documents relating to immovable property.

town, to receive and register any document* referred to in Section 28, without regard to the situation (in any part of British India) of the property to which such document relates. Section 67 provides that on any document being so registered, a copy thereof, and of the endorsements and certificate thereon, shall be forwarded to every Registrar within whose district any part of the property to which the instrument relates is situated, and the Registrar shall, under Section 66, forward a memorandum of such document to each Sub-Registrar subordinate to himself, in whose sub-district any part of the property is situated. A case was brought to the notice of the Government of India, in which after effecting the registration of a deed under Section 30 (b) of the Act, the Registrar who originally registered the deed failed to comply with the directions contained in Section 67 of the Act, in respect of the transmission of the record of registration to every Registrar within whose district any part of the property to which the instrument related was situated. The necessary result of this omission was that the record of registration remained incomplete, and failed to show existing encumbrances on the property to which the document registered related. In order to prevent the recurrence of such omissions, the special attention of the Inspector General of Registration is drawn to the matter in view to the issue of stringent instructions for a strict compliance with the requirements of the law. (G. I., H. R. & A., No. 47—1651, dated 28th October 1880; *vide* G. R. No. 6119, dated 19th November 1880.)

3. The District Registrar may, if he so desires, place his office safe in the treasury of his Huzúr station for safe custody. (G. R. No. 5687, dated 21st July 1884.)

VI.—SUB-REGISTRARS.

1. The appointment of Sub-Registrars rests with Government under Section 6 of Act III of 1877. The appointments to permanent vacancies should not be made in anticipation of the sanction of Government. When a vacancy in an appointment of

Sub-Registrar is about to occur, the Registrar should report the fact to the Inspector General of Registration and make any recommendation which he thinks fit regarding the successor. The Inspector General of Registration may either adopt the recommendation of the Registrar or make any other which he thinks more suitable. Section 12 of the Act provides that when a Sub-Registrar is absent, or when his office is temporarily vacant, any person whom the Registrar appoints shall be Sub-Registrar during such absence or until Government fills up the vacancy. In accordance with this provision, the Registrar should arrange for the performance of the duties pending the appointment of a Sub-Registrar by Government, if the vacancy occurs before the appointment is made, but it should not be understood that such temporary appointment affects the permanent appointment to be made by Government; and on the other hand the Inspector General has no legal power to interfere with such temporary appointments. (G. R. No. 3402, dated 23rd May 1882.)

2. In 1884 Government sanctioned as an experiment the following plan proposed by the Inspector General of Registration and Stamps, and observed that in working it Government Resolution No. 3402, dated 23rd May 1882, should not be overlooked, and that the proposal was understood to be subsidiary to the orders in that Resolution :—

“The nomination to all vacancies in Sub-Registrarships for periods exceeding three months in duration should alternate between the Registrar of the District and the Inspector General. The officer who makes the initiatory nomination should make the further nominations arising out of it, i.e. if it is the Registrar's turn to nominate to a vacancy in the upper grades in his district, the flow of promotion thereby occasioned in that district should be at his disposal, the same holding good as regards the Inspector-General's privileges when the initiatory nomination rests with him. In the case of a Registrar with the concurrence of the Inspector General nominating a Sub-Registrar from another district to a vacancy occurring in his district, the nomination to fill such transfer-vacancy and others which might arise therefrom should also be regulated as above stated.”

(G. R. No. 5589, dated 11th July 1884.)

3. The Inspector General of Registration and Stamps should inform the Accountant General of the dates on which Sub-Registrars give over and receive charge of their duties. (G. R. No. 1954, dated 16th April 1878.)

4. The Inspector General of Registration and Stamps cannot even in cases of emergency transfer in a permanent sense a Sub-Registrar from one post to another in anticipation of the sanction of Government. (G. R. No. 7798, dated 22nd November 1888.)

5. The sanction of Government is necessary even in the case of temporary transfers of Sub-Registrars made as a disciplinary arrangement. (G. R. No. 6894, dated 14th September 1889.)

6. The Inspector General of Registration may suspend a Sub-Registrar, but he should report his proceedings to Government after inquiry into the case. (G. R. No. 1371, dated 17th March 1874.)

7. The salaries of all the Sub-Registrars in the Presidency proper excepting the Sub-Registrar of Bombay and the Sub-Registrar and Táluka Village Registrar of Haveli should be personal and not local. (G. Rs. Nos. 318, dated 14th January 1889, 2819, dated 24th April 1891, and 3900, dated 9th June 1891.)

8. The Sub-Registrars in the Presidency proper (with the exception of the town and island of Bombay) should in addition to their fixed salaries receive 20 per cent. of the fees collected by them. (G. R. No. 3373, dated 22nd September 1866.)

9. The Sub-Registrars of Hyderabad, Shikárpur, Sukkur, Lárkhána, Rohri and Dádu should be paid at the rate of 40 per cent. on the gross collections, subject to the following maximum limits :—

				Rs.
Sub-Registrar of	Hyderabad	...	...	125
Do.	Shikárpur	...	...	125
Do.	Sukkur	...	...	80
Do.	Lárkhána	...	...	80
Do.	Rohri	...	...	70
Do.	Dádu	...	...	60

The other Sub-Registrars in Sind (excepting the Sub-Registrar of Karáchi whose pay has been fixed at Rs. 100 per mensem by Government Resolution No. 5084, dated 16th July 1889) should be paid at the rate of 50 per cent. of the fees. (G. Rs. Nos. 6971, dated 12th October 1887, and 5952, dated 31st August 1891.)

10. The Sub-Registrar of Aden should be allowed 20 per cent. on the gross collections in his office. (G. R. No. 5183, dated 11th September 1875.)

11. The percentage allowance to Sub-Registrars is not to exceed Rs. 200 per mensem. (G. I., H. D., No. 527, dated 11th February 1873; *vide* G. R. No. 952, dated 18th idem.)

12. When a permanent Sub-Registrar takes sick leave or leave on private affairs, the percentage fees may be drawn in full by the *locum tenens*, who will pay the establishment. (G. Rs. Nos. 1565, dated 16th April, and 2522, dated 23rd June 1869.)

13. For the payment of percentage allowances to officiating Sub-Registrars the amount of the percentage on fees received during any one month should be taken as whole, and dividing that whole by the number of days in the month he should have the due proportion of the whole amount for the number of days he has officiated. (G. R. No. 7069, dated 11th October 1882.)

14. Each of the Sub-Registrars employed in the districts in which the Dekkhan Agriculturists' Relief Act is in force should also be allowed 75 per

cent. of the fees paid on instruments registered by him in his capacity of Táluka Village Registrar or Village Registrar and 5 per cent. on the monthly realizations from the registration fees of the villages in the táluka of which the Sub-Registrar is Táluka Village Registrar. The 5 per cent. should be calculated upon the total receipts before any deduction has been made. (G. Rs. Nos. 452, dated 21st January 1881, and 1186, dated 26th February 1881.)

15. In the Bombay Presidency, Clerks to the Inspector General of Registration and Stamps, Inspectors and their Clerks, Registrars' Clerks or Kárkúns, and Clerks in the office of the Sub-Registrar of Bombay when appointed to act in graded Sub-Registrarships are as a very special case exempted from the operation of Article 156 of the Civil Service Regulations. (G. R. No. 7939, dated 7th October 1892.)

16. All Sub-Registrars when taking charge of a Registry Office should compare the books and property handed over to them with the lists furnished to them, and certify that they have done so. Strict instructions should be issued on this point, and care taken that they are complied with. (G. R. No. 3509, dated 20th August 1869.)

17. Sub-Registrars in the mofussil should be addressed by the title of A'zam in official correspondence. (G. R. No. 8035, dated 1st November 1883.)

Note.—The use of the word "A'zam" does not imply that the person addressed has such a title *ex officio*; the term may be used as the equivalent of the English "Mr.," and should not be formally conferred *ex officio* or otherwise on any individual or class of officers. (G. R., P. D., No. 4122, dated 27th June 1887; vide G. M. No. 4845, dated 25th July 1887.)

18. Sub-Registrars should give security in the following amounts, *viz.*:—

	Rs.
Sub-Registrar, Bombay	3,000
1st Grade Special Sub-Registrar...	750
2nd Do. Do. ...	500
3rd Do. Do. ...	350
4th Do. Do. ...	250
1st Grade Sub-Registrar	200
2nd Do. Do. ...	150
3rd Do. Do. and the	
Sub-Registrar of Peint	100

(G. R. No. 1152, dated 4th March 1878.)

Note.—Under the Resolution of the Government of India in the Department of Finance and Commerce, No. 2232, dated 25th July 1883 (Government Resolution, Financial Department, No. 3031 dated 17th August 1883), it is left optional with subordinate Revenue officers, who are entrusted with the charge of public money, either to deposit Government Promissory Notes, or to execute a bond in the form contained in Schedule B of the Land Revenue Code of 1879.

19. Sub-Registrars are to be considered ministerial officers, though their appointments are gazetted. (G. R. No. 6038, dated 25th October 1876.)

Note.—In Government Resolution No. 6788, dated 26th September 1890, it has been held that Village Registrars are not ministerial officers.

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20. As the appointments of Sub-Registrars are made by Government, returns of the Sub-Registrars who own landed property should be submitted to Government, in order that the object of these returns* may not be defeated. (G. R. No. 4759, dated 3rd July 1886.)

21. The Sub-Registrars of Ahmednagar, Jāmkhed, Shevgaon and Nevāsa, in the Ahmednagar District, are permitted to daily deposit, after the close of their offices, in the treasury rooms at the respective places their office boxes containing Government cash or original documents, registered or awaiting registration, remaining in their hands. (G. R. No. 5024, dated 27th July 1888.)

22. When it is proposed to open a new Sub-Registry office, the opinion of the Registrar of the District should also be obtained and forwarded to Government with the papers by the Inspector General of Registration and Stamps. (G. R. No. 6351, dated 7th September 1886.)

23. All ordinary repairs to Sub-Registry offices should be effected at the same time as the kacheris of which they form a part are repaired. (G. R. No. 189, dated 10th January 1883.)

VII.—INSPECTION.

1. The Inspector General of Registration and Stamps should so arrange his tour of inspection that a different set of offices should come under his observation each year so that the whole should be inspected periodically. (G. R. No. 6056, dated 16th November 1880.)

2. Under Section 8 of the Indian Registration Act, 1877, His Excellency the Governor in Council is pleased to direct that the duty of Inspectors of Registration Offices in the Presidency of Bombay shall be the inspection and examination, subject to such rules or orders as may from time to time be made by the Inspector General, of the offices of Sub-Registrars. (G. R. No. 1152, dated 4th March 1878.)

3. The Inspectors of Registration are bound to inspect every Sub-Registrar's office in their divisions and are responsible for any errors that may escape their observation, and which may be subsequently brought to light. (G. R. No. 6678, dated 17th December 1874.)

4. The Inspectors while examining Sub-Registry Offices should personally examine the Register-Books proper, *i. e.* books Nos. 1, 2, 3 and 4; in the examination of the remaining books, *i. e.* Supplement to Book No. 1, Parts 1 and 2 (consisting of memorandum and map files), Minute Book, Cash Book, Day Book, Batta Book, Receipt Book, Notice Book, Refund Book, Indexes, and in the examination also of the current miscellaneous records of a Sub-

* *Vide* G. R., G. D., No. 833, dated 4th March 1886.

Registry Office, they may avail themselves of the assistance of their clerks. (G. R. No. 525, dated 28th January 1875.)

5. The Registrar of each district should send to the Registrar General a monthly statement, showing the number of offices that have been examined by himself and his Assistants. His Excellency in Council will not fail to notice with marked displeasure any indifference or inattention to this important duty. (G. R. No. 4348, dated 10th September 1870.)

6. It is desirable that junior officers of the Revenue Department, many of whom will in time succeed to the office of District Registrar, should acquire a thorough knowledge of the work of the Registration Department. In furtherance of this object, the following rules for the guidance of Assistant and Deputy Collectors when examining a Sub-Registry Office, have been prescribed. District Registrars should take care that Assistant and Deputy Collectors in their respective charges are furnished with copies of all rules and important circulars of the Registration Department, and extracts should be sent to them from the reports of inspection of offices in their charges by the Inspector General or District Registrar or Registration Inspector. Any irregularity detected by departmental inspection which should have been noticed at previous inspection by the district officers should have special attention called to it, as indicating inefficient performance of a part of the district officer's regular duty.

Points to be observed by an Assistant Collector when examining a Sub-Registry Office :—

(a).—See that the books and forms of the Sub-Registry Office as per the annexed list are forthcoming, and whether they are written up to date or in arrears.

(b).—See that the books and particularly the registers are neatly kept and written.

(c).—See that the indexing work of the office both as regards the original index-sheets and the copies prepared for despatch to the Registrar's Office, are up to date, and that the preparation of one set of these returns has not been allowed to fall behind that of the other.

(d).—Refer to the Forms W (office copies) of the preceding year, ascertain which was the busiest month in the office, and then further ascertain what during that month was the maximum delay between presentation and date of completion of registration of a deed in the office.

(e).—Take 10 entries and test (1) the stamp duty, (2) the registration and copying fees in each case.

(f).—Take 20 entries and see that the seal impression appearing on the original is duly copied in column 2 in the Register Book, and that the true copy certificate to the entry has been signed by the Sub-Registrar.

- (g).—Refer to Book No. II and with the aid of the Refund Register ascertain whether steps have been taken in due time to refund fees paid on deeds which have been finally refused for registration.
- (h).—Compare the daily totals appearing in the Cash Book with the corresponding entries in the Day Book for one month.
- (i).—Compare the fees levied in twenty cases as per the entries appearing in the Register Book, Receipt Book and Day Book.
- (j).—See that the office seal is clear, and that the impressions thereof on any deed which may be in hand are fairly legible, and that deeds drawn up on more than one piece of paper are sealed across the joints in accordance with standing orders.

An Assistant Collector having visited a Sub-Registry Office for inspection purposes as above, will submit a brief report in his own handwriting on the results of his inspection to the Collector and Registrar of the District, and the latter shall forward such report to the Inspector General of Registration for perusal should it appear to such Collector and Registrar that the report contains anything which it is desirable to bring to the notice of the Inspector General.

List of Books and Forms to be scrutinized at the examination of a Sub-Registry Office by an Assistant Collector.

Books.

Book No. I.	Day Book.
Book No. I, Part I.	Minute Book.
Book No. I, Part II.	Cash Book.
Book No. I, Part III.	Batta Book.
Book No. II.	Miscellaneous Receipt Book.
Book No. III.	Receipt Book.
Book No. IV.	Notice Book.

Forms.

List of Documents destroyed.	Form of account of postal expenditure.
Register of Refunds.	Register of Court-fee Stamps.

(G. R. No. 1800, dated 24th March 1887.)

VIII.—INSPECTORS.

1. The Inspector General of Registration and Stamps may grant leave to Inspectors of Registration and Stamps, and he should sign all notifications regarding their leave and appointments. They are to be considered ministerial officers, though their appointments are gazetted. (G. Rs. Nos. 6088, dated 25th October 1876, 6952, dated 27th November 1876, and 2712, dated 29th March 1884.)

2. The power to make appointments of Inspectors of Registration is vested by Section 8 of the Indian Registration Act, 1877, in the Governor in Council, and it was not intended by Government Resolution

No. 2712, dated 29th March 1884, to confer that power on the Inspector General. (G. Rs. Nos. 2162, dated 13th April 1881; and 4736, dated 3rd July 1889.)

3. In the event of an Inspector going on casual leave, the officer to whom he may hand over his office should not undertake any ordinary inspection duties. (G. R. No. 4145, dated 21st July 1873.)

4. It will be in the power of the Inspector General to withhold the whole or any portion of the travelling allowance of the Inspectors if on a perusal of the monthly diaries he considers an Inspector has not been sufficiently active in his movements.

The movements of the Inspectors during the monsoon may be regulated by the Inspector General, the wish of Government that during the monsoon months the Inspectors should divide their time between the different head-quarters of the districts comprising their charges being, as far as is consistent with the proper working of the Department, adhered to (G. Rs. Nos. 2565, dated 5th May, and 4390, dated 31st July 1873.)

5. The Inspectors will have it in their power to collate and place before Government, in a shape that will admit of its utilization, a great deal of interesting and useful statistical information, and the opportunity of so doing afforded by the periodical examinations of the Registry Offices should not be lost sight of. It is especially desirable that all information relating to the selling price of land should be carefully compiled and communicated to the Survey Commissioner. (G. R. No. 2565, dated 5th May 1873.)

6. Officers in the Registration Department belong to a branch of the Revenue Department. The Inspector General of Registration and Stamps has, therefore, power under clause 15 of Rule 1 of the rules under the Arms Act to permit at his discretion Inspectors of Registration and Stamps and other officers under him who are required to travel about "in frontier or wild districts" to carry arms. (G. R. No 8349, dated 14th November 1883.)

IX.—EXAMINATIONS.

1. No officer is to enter the Registration Department except under the general educational test.

The rules for the examination of subordinate establishments of Government in the Revenue, Magisterial and Police Departments are also to be applicable to the Registration Department, as regards the Committee before whom the examination is to be held, the time at which it is to be held, and the penalties for not passing.

In respect to the subject of examination, the Inspector General of Registration will prepare a set of twelve questions, and forward them in a sealed cover to the President of the Committee. Four hours will be allowed in which to answer them; the

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total number of marks attainable will be 300, of which the examinee must obtain not less than two-thirds to pass.

The examination for the office of special Sub-Registrar will be analogous to that which candidates for the office of a Sub-Magistrate have to undergo, and will be held before the Registrar of the District. (G. R. No. 2237, dated 12th May 1871.)

2. The duty of assessing the value of answers to questions set at the examination of subordinates in the Registration Department rests with the various Examination Committees at the different district centres, the Inspector General of Registration furnishing "a reply in manuscript paper" to the President of each Local Committee on the day following that on which the examination is held. The examination in Sind should be identical with that for the Presidency Proper and held on the same day. The Commissioner should make arrangements for it, the Inspector General supplying the papers of questions and answers. (G. R. No. 5708, dated 27th August 1887.)

3. No one who has not passed the general educational test should be employed even as a Karkun under a Sub-Registrar. (G. R. No. 2724, dated 13th May 1873.)

4. It is at the discretion of a District Registrar, acting in his capacity as such, as the Collector of the District and as President of the Examination Committee, to determine in what cases respectable persons of a class not likely to enter the service of Government as Karkuns, but for whom the more independent post of a Sub-Registrar would have many attractions, might be allowed to appear at the annual examination of the Registration Department. (G. R. No. 6989, dated 30th December 1873.)

5. An employé of the Registration Department is not entitled to claim exemption from the examination contemplated in Rule 82 of the Registration Departmental Rules by reason of the fact that he has passed the Special Lower Standard Examination in the Revenue Department. (G. R. No. 212, dated 12th January 1892.)

X.—FEES.

1. The payments into the treasury of the fees levied under the rules* under Section 91 of the Indian Registration Act, 1877, and Section 213 of the Bombay Land Revenue Code for regulating searches for, inspection of, and grant of extracts from or copies of, public documents should be checked by the Accountant General in the same manner as fines are treated. (G. R. No. 3603, dated 21st June 1876.)

* Printed at pp. 1-5 of the Compilation of General Rules.

2. There is no objection to process fees leviable under the Fee Table being levied in cash and credited to the Registration Department. (G. R. No. 1151, dated 4th March 1878.)

3. Fees on documents presented for registration should not be retained in the personal custody of any public officer longer than may be absolutely necessary, but should be dealt with in the same way as other public money and be paid at once into the nearest treasury.

In order to provide for refunds being made without unnecessary delay, the Local Governments, when a recommendation to that effect is made by the Inspector General of Registration or officer exercising the powers of an Inspector General of Registration, may allow to each Registering Officer a permanent advance of not more than Rs. 20, from which refunds may be made at once, bills in detail for the amount being afterwards submitted in the usual way. For large amounts the payments should be made only on bills at treasuries or sub-treasuries. (G. I., F. D., Nos. 125, dated 9th January 1874, and 1443, dated 14th March 1877; *vide* G. Rs. Nos. 364, dated 23rd January 1874, and 1818, dated 20th March 1877.)

4. The Mahalkari of Gubágar Petha in the Ratnágiri District is authorized to receive the registration fees, whenever they are paid, for transmission to the Chiplún Sub-Treasury. (G. R. No. 7945, dated 8th November 1890.)

5. In a case in which one party sold to another for a lump sum (Rs. 375) a piece of land together with a mortgage lien on another piece of land, and in which the value of the first piece of land was not stated; but the mortgage lien was Rs. 425, the question was raised whether for the purposes of the registration fee chargeable on the deed of conveyance under the Fee Table, the value or consideration should be deemed to be Rs. 375 or Rs. 375+425. It was held that the safest index was the amount of the consideration money stated in the deed.

In another case, in which certain immoveable property having incumbrances on it amounting to Rs. 200 was sold in auction sale for Rs. 16, a certificate of sale for Rs. 16 being granted by the Civil Court, the question was raised whether for the purposes of the registration fee chargeable on the certificate of sale under the Fee Table, the value or consideration should be deemed to be Rs. 16 or Rs. 16 + 200; and the following opinion was recorded by the Remembrancer of Legal Affairs:—

“The clear and obvious distinction between the two cases is that in the first the purchaser buys, not the land itself, but the mortgage lien on it. He steps into the place of the mortgagee. In the other case he buys the land subject to a debt on it which he is bound to pay. He steps into the place of the mortgagor, whose right, title and interest he has bought. What he really buys is nothing more than the mortgagor's equity of redemption. Now, the value of this equity of redemption must in most cases be a mere nominal value, being the value of the property mortgaged less the amount of the mortgage lien; and this value in an auction sale is shown by the highest bid, which in the present case was Rs. 16.

"The Civil Procedure Code provides that when property is ordered to be sold by public auction in execution of a decree, any incumbrance to which the property is liable shall be set forth in the proclamation of sale, and the Court is required to make special enquiry to discover any incumbrance. When any property is sold in execution of a decree, which is liable to any such incumbrance, the Code provides (Section 295) that the Court may, with the assent of the incumbrancer, order the property to be sold free from the incumbrance, giving the incumbrancer the same right against the proceeds of the sale as he had against the property sold. Otherwise the property is sold burdened with the incumbrance, and the purchaser is at liberty to take the incumbrance into consideration in bidding.

"What is actually sold in the auction sale is the land and not the mortgagor's equity of redemption; and therefore the highest bidding does not necessarily represent the value or consideration for which the land is actually purchased. It represents the price which is paid at the sale, but to make up the value or consideration this price must be added to the debt which constitutes an incumbrance on the property. Consequently, the debt is properly deemed part of the consideration, in respect whereof the transfer is chargeable with *ad valorem* registration fee as well as stamp duty." (L. R. Nos. 1082, dated 7th December 1878, and 1364, dated 9th November 1880; *vide* G. Rs. Nos. 6461, dated 14th December 1878, and 6376, dated 4th December 1880.)

6. When the value of an instrument which is chargeable with duty under the table of fees issued under Section 78 of the Registration Act, No. III of 1877, is expressed in pounds sterling, or pounds currency, the value of such money in the currency of British India should, for the purposes of the fee chargeable under the Registration Act, be calculated according to the scale laid down in Section 19 of the Indian Stamp Act of 1879, whereby one pound sterling or pound currency is regarded as equivalent to ten rupees. (G. I., H. D., No. 5-151, dated 30th January 1883; *vide* G. R. No. 1418, dated 20th February 1883.)

XI.—DOCUMENTS REQUIRING TO BE REGISTERED OR OTHERWISE.

1. A surrender of a lease is compulsorily registrable if the value of the lessee's right, title or interest is one hundred rupees or upwards, but not if it is less than one hundred rupees (*vide* Sections 17 (b) and 18 (a) of the Registration Act). (L. R. No. 1592, dated 29th November 1884; *vide* G. R. No. 9826, dated 12th December 1884.)

2. Receipts for money paid for land acquired (for public purposes) by private agreement are compulsorily registrable when the amount of consideration is one hundred rupees or upwards. In such cases clause (c) of Section 17 of Act III of 1877 is applicable, because the receipts are not mere receipts of money. They are the only written evidence of the agreement, and they show that the money is received on account of the assignment of the payee's right, title and interest in the property concerned. (G. R. No. 933, dated 31st January 1885.)

3. Receipts for money paid under awards under

the Land Acquisition Act, 1870, do not need to be registered. (G. Rs. Nos. 2766, dated 6th April 1883, 3025, dated 18th idem, and 9767, dated 24th December 1889.)

4. Receipts for sums of Rs. 100 or upwards paid to occupants of lands purchased for forest purposes should be registered, the charge of registration being met from the sum sanctioned by Government for taking up the lands. (G. R. No. 5175, dated 24th June 1885.)

5. Receipts passed by a mortgagee for payments made to him by his mortgagor in liquidation of the mortgage-debt do not require to be registered under clause (b), Section 17 of Act III of 1877, because the payments do not operate to affect the mortgagee's interest in the land; they merely reduce the sum due on the mortgage. (G. R. No. 2766, dated 6th April 1883.)

6. The registration of awards made under the Land Acquisition Act is not compulsory, but is only optional under the terms of clause (i) of Section 17 and clause (f) of Section 18 of the Indian Registration Act, 1877. (G. R. No. 1978, dated 13th March 1889.)

XII.—IDENTIFICATION OF EXECUTANTS, &c.

1. The Governor in Council desires specially to call the attention of all Registrars and Sub-Registrars to Rule* 39 of the Rules framed under Section 80 of the Registration Act, 1866, and to impress upon all Registering Officers the evils that might arise from any case in which a false personification had been admitted, and the hardships that might ensue therefrom in after years to the person or persons thus falsely personified, or their heirs. All Registering Officers should, before ordering registration of any document presented for registration, satisfy themselves, as thoroughly as possible, of the identity of the executants and securities. (G. R. No. 2808, dated 22nd July 1868.)

2. Although the Registering Officer must satisfy himself as to the identity of the person admitting execution, care should be taken that he does not require evidence which cannot reasonably be expected, and the Inspector General of Registration should do all in his power to prevent unnecessary inconvenience being caused on this account. (G. R. No. 158, dated 9th January 1883.)

3. There is no authority for compelling executants to bring witnesses to identify from a distance, if such evidence as would satisfy a Court of Justice can be obtained on the spot. The inconvenience and cost of registration should not be increased by an unreasonable view of the requirements of the law and rules. (G. R. No. 8232, dated 8th November 1883.)

XIII.—INTERPRETATIONS AND LEGAL OPINIONS.

1. (Section 3).—It would seem to be difficult to frame a definition of 'moveable' and 'immoveable'

*Vide Rule 58 of the Rules under the Indian Registration Act III of 1877 printed at pp. 349-374 of the Compilation of General Rules.

property suitable for practicable use on a mere consideration of the physical nature of the property. It would appear to be necessary to take into account also the way in which the property is regarded and dealt with at the time of the transaction, and this is apparently what the framers of the Indian Registration Act, 1877, meant to do by using the words 'standing timber' in contradistinction to 'trees.' Certain trees being almost invariably used as timber, are commonly spoken of as 'timber trees.' But probably most trees would admit of being used both as timber and for other purposes. Thus, properly speaking, almost every tree being potentially timber and no tree actually timber, the question whether a tree is for the purposes of any transaction to be deemed to be 'timber' must depend upon the way it is regarded and treated in that transaction. If, for example, trees are sold with a view to their being cut down and removed, the sale is one of 'standing timber' within the meaning of the Registration Act. If, on the other hand, trees are sold with a view to the purchaser keeping them permanently standing and enjoying them by taking their fruit or otherwise, the sale would not, it is believed, on any construction of the Act, be regarded as one of 'standing timber,' but would be a sale of immoveable property. (G. I., H. D., No. 49—1812, dated 31st October 1884; *vide* G. R. No. 9211, dated 21st November 1884.)

2. The definition of immoveable property given in Section 3 of the Registration Act (III of 1877) must alone be looked to in determining, for the purposes of that Act, what is and what is not immoveable property.

'Ferries' are expressly included within the definition. A ferry is an exclusive right to carry persons and their goods across a river and to take payment for the service rendered. 'Tolls,' as they exist in this Presidency, are simply taxes on traffic on roads and bridges. There is no substantial similarity between ferries and tolls, and as 'tolls' are not specially named in the above definition, the fact that ferries are named therein affords no argument that tolls must be meant to be included also.

Tolls can only be held to fall within the definition if they are 'benefits to arise out of land.' This they cannot reasonably be said to be; they are simply taxes imposed under the authority of a legislative enactment, on traffic, and there is no more reason for classing them as immoveable property for the purposes of the Registration Act than for including *ābkāri* and opium taxes in the same category. (L. R. No. 981, dated 23rd July 1884; *vide* G. R. No. 6268, dated 4th August 1884.)

3. Wharfage fees are not immoveable property as defined in Section 3 of Act III of 1877. (L. R. No. 1109, dated 20th September 1881; *vide* G. R. No. 5649, dated 28th *idem*.)

4. (*Section 5*).—The third paragraph of Section 5 of the Registration Act, III of 1877, very clearly

provides that territorial changes shall take effect, *after the date of the notification*, on a day to be mentioned therein. In the face of this enactment, it is not possible for Government, by notification, to sanction or give validity to such changes retrospectively. (L. R. No. 846, dated 7th July 1886; *vide* G. R. No. 5028, dated 14th July 1886.)

5. (*Sections 23, 24 and 34*).—A document presented under Section 23 of the Indian Registration Act must be admitted free of penalty within the 4 months allowed by that section, and with penalty within 8 months under the terms of Section 34. A document presented with penalty under Section 24 may be admitted at any time free of further penalty within the 8 months allowed by that section, and with penalty after the 8 months have elapsed up to 12 months under Section 34. So that documents must be admitted within the 4 months to be free of all penalty, within 8 months with one penalty and within 12 months with two penalties. (G. R. No. 158, dated 9th January 1883; G. I., H. D., No. 36-1174-85, dated 1st September 1883; *vide* G. Rs. Nos. 7507, dated 8th October 1883, and 8853, dated 11th November 1884.)

* Cf. Sec. 25 of Act III of 1877.

6. (*Section 25*).—"Section 25* of Act VIII of 1871 makes special provisions for the registration of documents executed out of British India, and shows, therefore, that the fact of a document having been so executed is no bar to its registration.

† Cf. Sec. 34 of the Indian Stamp Act, 1879.

"The Registration Act does not require the Registering Officer to enquire into the sufficiency or validity of the stamp borne by any document presented to him for registration; but Section 18† of the General Stamp Act provides that 'no instrument chargeable with stamp duty * * * shall be registered by any officer, acting under any law for the registration of assurances * * * unless such instrument bears a stamp of a value not less than the amount of the duty with which it is chargeable under any law in force in British India at the time of its execution.'

"The question is, therefore, whether the bond referred to by the Collector was chargeable with stamp duty under any law in force in British India at the time of its execution.

‡ Cf. Sec. 5 (c) of the Indian Stamp Act, 1879.

"The bond appears to have been executed in the Nizam's territory and is, therefore, governed by the law of that territory as to the stamp it ought to bear (see VII Bom. H. C. R., 140, A. C. J.) and it is no part of the duty of the Registering Officer to ascertain whether the requirements of that law have been fulfilled or not. But if the bond relates to some property in British India, it is liable to stamp duty under Section 4,‡ Act XVIII of 1869, also, and it is incumbent upon the Registering Officer to refuse to register it unless it bears the proper British Indian stamp." (L. R. No. 489, dated 20th May 1876; *vide* G. R. No. 8273, dated 2nd June 1876.)

7. (*Section 27*).—A Collector having raised the question whether the execution of two documents, each

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creating an interest under Rs. 100 in immoveable property, in place of one document for the total amount, is not a contravention of Section 27 of the Stamp Act rendering the documents inadmissible in evidence, the following opinion (No. 1029, dated 21st September 1888) was recorded by the Remembrancer of Legal Affairs :—

“It is very possible that the object of executing two documents instead of one was to avoid the expense, as well as the publicity of registration.

“But Section 27 requires only such facts and circumstances as affect the chargeability of an instrument with *duty* to be set forth.

“‘Duty’ is the amount chargeable under Schedule I of the Stamp Act, and does not include registration fees which are levied not as a source of revenue, but for services performed and benefits received.

“The provisions of Sections 49 and 50 of Act III of 1877 declare the consequences of non-registration.

“Each of these documents creates an interest under Rs. 100 in value. Neither of them is inadmissible in evidence to prove either of such charges. But neither of them would avail against a registered mortgage, and their separate operation is quite different from what the effect of one mortgage for their combined amount would be. A mortgage for the combined amount would be indivisible, whereas each of these mortgages may be separately redeemed.

“As they do not profess to operate as *one* document for the combined amount would operate, there is nothing to prevent their admissibility in evidence though their *operation* is subject to the provisions of the Registration Act giving preference to any registered charges in existence relating to the same property.”

(G. R. No. 7000, dated 20th October 1888.)

8. (*Section 33*).—Section 33, clause (c) of Act III of 1877 does not require that the (registration) power of attorney in cases in which the principal at the time of execution resides in a Native State should be executed before a British Court, Judge or Magistrate, but before *any* Court, Judge or Magistrate. A power of attorney executed before and authenticated by a Native Court, Judge or Magistrate of a Native State should, therefore, be accepted by the registering officer. (L. R. No. 594, dated 9th May 1885; *vide* G. R. No. 4172, dated 23rd idem.)

9. (*Part X*).—A question having been raised whether a party consenting, in writing below a deed primarily executed by another party, to the contents of that deed should be viewed as an executant thereof, the following opinion (No. 1112, dated 24th August 1887) was recorded by the Remembrancer of Legal Affairs :—

“In the document, of which a translation has been sent to me, R has not executed the principal instrument in which H sells certain property. But he has executed a second instrument whereby he gives his assent to H’s sale, and if he chooses to register this second instrument he is at perfect liberty to do so.

“His registration, however, of the instrument executed by himself cannot have the effect of making H’s instrument ‘a registered document’ for the purposes of Part X of the Registration Act, albeit it may be necessary to copy it out

under Section 52, as forming an integral part of R's instrument.

"When endorsing registration on the document, the Sub-Registrar should, I think, make it clear that it was R's instrument that was registered and not H's."

(G. R. No. 6128, dated 10th September 1887.)

10. (*Section 75*).—On comparing the provisions of the new Registration Act III of 1877 with those of the last one (VIII of 1871) it appears that the powers of a Civil Court with which a Registrar is now invested by Section 75 of Act III of 1877 are new. Section 36, on the other hand, is the same in both Acts. If, therefore, it had been intended that the issue of process by Registrar, when acting under Section 75 of the new Act, should be done vicariously as in the instances for which Section 36 provides, it would have been so stated. Nothing could have been easier than to state that the Registrar should obtain the issue and enforcement of summonses, &c., in the manner prescribed by Section 36. In the absence of any such provision, it seems that Section 75 of Act III of 1877 must be interpreted quite independently of Section 36. Another reason which leads to this opinion is that clause 4 of Section 75 provides in itself complete powers for procuring the attendance of witnesses and requiring them to give evidence without reference to any other authority. For the purpose of any enquiry under Section 74, the Registrar is invested with the powers of a Civil Court (whose functions he is in fact now required to discharge, subject to a right of action against his order), and he should exercise those powers, as a Civil Court does, through the agency of his own subordinates. (L. R. No. 1125, dated 28th September 1877; *vide* G. R. No. 6063, dated 8th October 1877.)

11. Section 75 of the Act provides that the Registrar may summon and enforce the attendance of witnesses, and compel them to give evidence, as if he were a Civil Court. It also provides that he may direct by whom the costs of the enquiry shall be paid, and that such costs shall be recoverable as if they had been awarded in a suit under the Code of Civil Procedure. When a Registrar directs that the costs of an enquiry under Section 74 of the Registration Act shall be paid by a certain party, he should proceed, as if he were a Civil Court, to recover the costs by the agency of his own establishment, and should follow as nearly as possible the procedure laid down in the Civil Procedure Code. The Registration Act contains no provision for enabling the Registrar to send his order to a Subordinate Judge for execution. The Registrar himself has the powers of a Civil Court. The only case in which a Registrar could send his order for execution to any other Court would be when the order could not be executed within his own district, for which case provisions are made in Section 223 of the Civil Procedure Code. (L. R. No. 314, dated 4th April 1878; *vide* G. R. No. 1882, dated 12th *idem*.)

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12. A question having been raised as to how a direction made by the Registrar of Bombay, under Section 75 of the Registration Act, 1877, for the payment of the cost of an enquiry held by him under Section 74, should be executed, the following opinion (No. 78, dated 1st December 1886) was recorded by the Advocate General :—

“The High Court and not the Small Causes Court is the proper Court to execute the Registrar's direction as to costs, inasmuch as the ‘case’ was not one ‘cognizable’ (which I interpret to mean ‘cognizable’ *quoad* the ‘cause of action’ and not the amount of costs to be recovered) by the latter Court.

“The proper course accordingly is for the decree-holder or his attorney to apply to the Sitting Judge of the High Court in Chamber, under Rule 10 (sub-clause ‘J’), upon notice to the Prothonotary, for the issue of an order for execution. The Registrar should also be notified to produce the proceedings upon such application.

“There can be no objection to the decree-holder or his attorney being informed to the above effect, and it will be for them to move in the matter as disposed or advised.”

(G. R. No. 8709, dated 10th December 1886.)

13. (Section 82.)—“An agriculturist executed a document compulsorily registrable under Section 11 of Act XXIII of 1886, amending Chapter VIII, Section 63 of Act XVII of 1879 (the Dekkhan Agriculturists' Relief Act). Such documents have to be produced before a Sub-Registrar who is then bound to act in accordance with the procedure prescribed for a Village Registrar (*vide* Section 11 of Act XXIII of 1886 and Section 59 of Act XVII of 1879).

“Rule 15B made under Section 61 of Act XVII of 1879 (the Dekkhan Agriculturists' Relief Act) is published at page 1147 of the *Bombay Government Gazette* for 1884 (Notification No. 8423).

“It requires the Village Registrar to enquire and ascertain whether the instrument about to be executed will modify or wholly or partly supersede any previous instrument, and if the parties answer in the negative, the Village Registrar will make an endorsement accordingly.

“In the case now under reference, the intending executant was accompanied to the Sub-Registrar's office by one R., the brother of S., the person in whose favour the document was to be executed.

“R. gave his name as S., and assured the Sub-Registrar that the intended document would not affect any previously executed document.

“It appears that R. had no dishonest motive. But as Section 57 as amended by Section 13 of Act XXIII of 1881 requires any relation of an obligee so appearing to produce a power of attorney, R. seems to have personated his brother merely to save trouble and expense.

“The Inspector General seems to think that Section 63 A of the Dekkhan Agriculturists' Relief Act (*vide* XXIII of 1886) is incorporated by reference in the Registration Act III of 1877, and that, therefore, such false personation or statement is

punishable under Section 82 of the Registration Act.

"The Sessions Judge held that Section 82 of Act III of 1877 applied only to proceedings or inquiries under that Act, and not to proceedings, &c., under the Dekkhan Agriculturists' Relief Act.

"This finding seems reasonable.

"It is further to be noted that Rule 15 B, under which a statement of the nature made by R. is required, is made under Section 61 of Act XVII of 1879.

"No penalty could attach to a false answer to any inquiry under that rule—

(a) because Section 61 of Act XVII of 1879 empowers the Inspector General to make rules only to regulate the proceedings of his subordinates and not to impose duties on the public ;

(b) Rule 15B prescribes only the duties of the Village Registrar, and no provision of law imposes a corresponding duty on the person interrogated.

(c) Section 63A (Section 11—XXIII of 1886) merely imposes additional duties on the Registrar under Sections 57 and 59 of the Dekkhan Agriculturists' Relief Act, and does not make those inquiries a part of the Registration Act III of 1877, which is only to be followed *after* the procedure prescribed by the Dekkhan Agriculturists' Relief Act has been followed.

"For these reasons I do not think any offence has been committed under the Registration Act.

"The High Court would, I think, certainly decline to exercise revisional powers in such a case, and if an appeal were made, I think, it would fail.

"The Inspector General says this case is one of little moment, and apparently there was no *mala fides*.

"I do not think, therefore, any steps should be taken to interfere with the Sessions Judge's decision.

"I do not think that in this case a conviction could be had under Section 182, Indian Penal Code, as the intention of the accused was to save himself and his brother trouble, and not to cause the Registrar to do what he ought not to do.

"Should any case of real *mala fides* occur in future, such as the Inspector General suggests in paragraph 3 of his letter, I think that Section 182 and Section 471 of the Indian Penal Code would be the appropriate sections under which a conviction might be obtained." (L. R. No. 1008, dated 14th September 1888 ; *vide* G. R. No. 6676, dated 6th October 1888.)

14. (Section 90d).—A question having been raised whether the ninety-nine years' leases issued to villagers for land in the village gáontháns require to be registered or not, the following opinion (No. 139, dated 31st January 1888) was recorded by the Remembrancer of Legal Affairs :—

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"I do not think that leases by Government in the form forwarded require registration. The form simply evidences the grant by Government of an interest in land, and is, therefore, exempt from registration under Section 90 (d) of Act III of 1877.

"I observe, however, that the Inspector-General's letter No. 108 of the 27th May refers to *kabuláyats* executed by the lessees. No specimen of these has been sent to me, and without seeing one I can express no opinion as to the necessity, or otherwise, of registration.

"At the same time I doubt whether there is any necessity to take any *kabuláyats* at all. It seems to me that if the signature of the lessee were simply taken in a register acknowledging that he had received a lease in the prescribed form, but containing no promise to abide by its terms, it would for all practical purposes afford sufficient proof of his acceptance of the lease and avoid all difficulties about registration."

(G. R. No. 1309, dated 24th February 1888.)

15. (*Sections 90, 91.*)—An *inámdár* may do as he likes with his own private records. He can allow inspection of them or not, and give copies of them or not, as he pleases, and charge whatever anybody will agree to pay for any privilege he may allow him.

But Sections 90 and 91 of the present Registration Act (III of 1877) certainly do not apply to private but to public records. The records to which they refer are:—

(a) Documents which form part of the records of a land-revenue settlement,

(b) Documents and maps which form part of a survey record,

(c) Documents which under any law for the time being in force, are filed periodically in any revenue office by any officers charged with the preparation of village-records, and

(d) Registers of *sanads*, *inám*, title-deeds, &c.

It seems that no documents of the class (c) exist in this Presidency, and the documents named in classes (a), (b) and (d) are all public documents, and cannot, in any case, be the property of *Inámdárs*. Any of them which may happen to be prepared by hereditary officers are distinctly declared by Section 70, Bombay Act III of 1874, to be the property of Government, but for the most part these documents appear to be such as would be prepared by the Survey Department or in the Collector's or *Mámlatdár's* offices.

There is no legal sanction for the levy of fees for the inspection or grant of copies of any village records other than those comprised in one of the four classes named in the last paragraph, but it is of course competent to Government to authorize the charging of such fees as they deem fit for any copy of a public record, or for any inspection of a public record which they allow to be had or made. All fees so charged must unquestionably be credited to Government. If in any case an *Inámdár*, or the agent or servant of an *Inámdár*, is an officer of Government, and in his official capacity has charge

of public records, he is bound to account to Government for all fees he may receive for allowing inspection, or granting copies of such records. But unless in some official capacity, it is understood that no Inámdár can have charge of any public documents.

Under Section 76 of the Indian Evidence Act, I of 1872, it is only 'public officers' who can grant certified copies of public documents. Copies certified to be true copies by an Inámdár, as Inámdár merely, could not be used as evidence. (L. R. No. 164, dated 21st February 1878; *vide* G. R. No. 1111, dated 1st March 1878.)

XIV.—MISCELLANEOUS.

1. *References to Law Officers.*—The Registrar General should be careful not to have recourse to the Law Officers of Government except in cases of real importance or emergency, or which are likely to be quoted as precedents, establishing a general rule. (G. R. No. 4798, dated 19th December 1866.)

2. *Summons.*—Under Section 36 of the Indian Registration Act, 1877, His Excellency the Governor in Council is pleased to direct that for the purpose of the said section registering officers may call upon the nearest Magistrate to issue a summons whenever in their discretion they shall deem it necessary. (G. R. No. 1152, dated 4th March 1878.)

3. *Commissions.*—The proviso to Section 33 and Section 38 of the Registration Act merely prohibit Registering Officers from requiring the personal appearance before them of the persons therein described. Subject to this exception ('save as aforesaid') Section 39 applies the law in force in Civil Courts as to summonses, commissions and compelling the attendance of witnesses, *mutatis mutandis* to summonses and commissions issued and persons summoned to appear under the provisions of the Registration Act. So far as regards commissions, the intention is that, except as is otherwise provided in Sections 33 and 38, they should be issued in the same instances in which they could lawfully be issued by a Civil Court. (L. R. No. 1074, dated 10th September 1879; *vide* G. R. No. 4999, dated 18th idem.)

4. *Office for deposit of declarations of persons desiring to obtain a domicile in British India.*—In supersession of Government Notification No. 2006, dated 28th June 1865, published at page 1280 of the *Bombay Government Gazette* of the 29th idem, His Excellency the Right Honourable the Governor in Council is pleased to fix the office of the Registrar of Bombay as the office for the deposit of declarations of persons desiring to obtain a domicile in British India. (G. N. No. 4392, dated 20th August 1880.)